

## RIVERS MANAGEMENT ADVISORY COMMITTEE

### Meeting Minutes

July 24, 2006

DES Rooms 112/113

9:30 am – 12:30 pm

#### Members Present

Ken Kimball, Chair  
William Heinz  
Deborah Hinman by Telephone  
Torene Tango-Lowy for Johanna Lyons  
John Magee  
Walter Morse  
Allan Palmer  
Ted Sutton

#### Representing

Recreational Interests  
Granite State Hydropower  
NH Assn. Conservation Commissions  
Dept. Resources & Economic Development  
Fish & Game Department  
NH Fish & Game Commission  
Business and Industry Association  
Municipal Government

#### Term

Dec. 28, 2008 V  
Jan. 5, 2009 V  
Oct. 12, 2007 V  
Indefinite NV  
Indefinite NV  
Sept. 28, 2006 V  
Sept. 28, 2007 V  
Nov. 16, 2008 V

#### Members Absent

Michele L. Tremblay, Vice Chair  
Bob Beaurivage  
Ken Gallagher  
Gail McWilliam Jellie  
Wesley Stinson  
Vacant

Conservation Interests  
Public Water Suppliers  
Office of Energy and Planning  
Dept. of Agriculture, Markets and Food  
Historical & Archaeological Interests  
Agricultural Interests

Dec. 28, 2008 V  
Sept. 28, 2007 V  
Indefinite NV  
Indefinite NV  
June 15, 2007 V  
March 22, 2006 V

#### Guests Present

Ray Lobdell  
Carl Paulsen

Ammonoosuc Corridor Advisory Committee & Town of Littleton  
New Hampshire Rivers Council

#### DES Staff Present

Steve Couture  
Paul Susca  
Laura Weit  
Deb Loiselle  
Marie Loskamp

NHDES Rivers Coordinator  
NHDES Water Supply Protection  
NHDES Lakes and Rivers Asst. Planner  
NHDES Dam Bureau  
NHDES Watershed Management Bureau, Executive Secretary

#### The Meeting Was Called to Order

Ken Kimball, Chairman, called the meeting to order at 9:35 AM.

#### I. 9:30 – 9:45 Introductions/Minutes/Committee Business

##### 1) June 20, 2006 Meeting Minutes - *Vote Required*

- *William Heinz made a motion to accept the June 20, 2006 Meeting Minutes, Allan Palmer seconded the motion and the vote was unanimous.*

##### 2) RMAC Membership Status

- a) According to the Red Book, Walter Morse's term doesn't expire until 2009.
- b) Current membership, no one's term is expected to expire until the summer of 2007.
- c) Agricultural Interests – The NH Farm Bureau and NH Association of Conservation Districts have nominated Allan Bartlett. Despite calls by the Governor's office and DES, the third representative group, the NE Organic Farmers Association, has not submitted a nominee. Steve Couture contacted Allan and asked him to contact the NE Organic Farmers Association to resolve this.

**3) Stream Gage Strategy Committee – Ken Kimball, RMAC Chair**

The Stream Gage Task Force met on 6/24. It was a very productive meeting, as the attendees listed all existing gages and presented a strawman's version of what gages are important to DES. The committee took a serious look at where new gages are needed and why in NH's watersheds. The information will be used to build support for both federal and state funding.

**4) Correspondence**

a) None

**II. 9:45 – 10:15 Ammonoosuc River Nomination – Steve Couture, NHDES & Ray Lobdell, Ammonoosuc Corridor Advisory Committee and Town of Littleton – *Vote Required***

The Ammonoosuc Corridor Advisory Committee led a site visit and hosted a Public Hearing on June 20<sup>th</sup>. The site visit was very informative and there was a great turn out for the public hearing.

The RMAC reviewed each classification for the nomination using the information presented in the application and the site visit conducted on June 20<sup>th</sup>. There are 7 towns, 8 different river segments, with segment classifications including community, rural community and rural. After going through each segment the Committee agreed that the classifications were correct as submitted.

Bill Heinz and Allan Palmer gave the Committee an update on the types of comments that were heard at the public hearing. It was noted that enthusiasm grew as the meeting went on. All of the towns located along the Ammonoosuc River corridor submitted letters indicating their support for the nomination. There was some testimony that inquired why the application didn't include the headwaters.

Ken Kimball stated that Michele Tremblay chaired the public meeting and asked that her proxy vote be put in favor of the nomination.

- **Allan Palmer made a motion to nominate the segments of the Ammonoosuc River to be designated as proposed by the Ammonoosuc Corridor Advisory Committee, motion seconded by Ted Sutton. Vote was unanimous including Michele Tremblay's proxy vote.**

**III. 10:15 – 11:15 Legislation/Rulemaking/Other**

**1) Legislation:**

**a) Shoreland Protection Act Commission – Darlene Forst, NHDES**

Darlene Forst is the Supervisor for the Shoreland Program and has been serving as the secretary to the Shoreland Protection Act Commission. The Commission has been reviewing the Act and has identified 12 issues that should be addressed. The basic concern is how the rivers are protected, but not the headwaters. The Commission has not addressed the issue of which order of streams should be protected, but the point has been raised to include 2<sup>nd</sup> order streams.

The Commission has been focusing on new standards for woodland buffers. One of the problems is the inability of the state to enforce current standards, and the uncertainty of when the 20 year cycle starts and stops. Implementing new regulations for natural woodland buffers would require increased public awareness, improved shoreland outreach, variances and waivers. There is almost no Shoreland Protection outreach at this time. DES has a lack of personnel and an inability to enforce.

One of the changes the Commission is considering is developing a permit process. A fee would need to be established that would be large enough to implement the program. Once the process is implemented, a homeowner would become educated

about what they can and cannot do. An inventory would also need to be completed that contains a baseline of the existing conditions on the property before work commences. It would appear that a permit process would need to be implemented on a state-wide basis, since it could be considered an unfunded mandate if each town had to implement this program on their own. Another potential problem is that some towns do not have zoning.

There are 5 CSPA meetings left. Meetings are held on the second Monday of the month at Legislative Office Building, Room 305 at 10 am. A report that includes the Commission's findings is due on November 30, 2006.

Darlene Forst recommended that if the RMAC and/or other groups wanted to include 3<sup>rd</sup> and 2<sup>nd</sup> order streams in the CSPA, they should start lobbying for new legislation in the fall.

- **Ken Kimball requested that the Comprehensive Shoreland Protection Act be placed on the agenda for the next meeting.**

## 2) Administrative Rules:

### a) **RMPP Env-Ws 1800, Office of Legislative Services Annotations – Steve Couture**

The RMPP rules need to be revised. JLCAR updated them last year while Steve Couture was on military leave. Steve sent out packets that included 37 of the items that they brought up in their review of the rules.

The RMAC agreed to go through each one point by point and send their ideas or suggestions to Steve. The Committee also agreed to revisit the rules in the fall. The nomination point system and resource values are a significant part of the rules.

Several of the items that JLCAR referred to were not criteria driven; instead the determination was left up to a particular agency or person within an agency. JLCAR's concern is this approach may lead to oral rule making. Several different agencies have been cited for possible oral rule making: the Fish & Game Department, the US Fish and Wildlife Service, the State Historic Preservation Officer, and the State Geologist. Steve agreed to draft a memo to obtain new language from these agencies. John Magee suggested using the wildlife action plan to help define the criteria associated with F&G. JLCAR expects to receive edits in the spring.

- **Steve will have a draft for the Committee to look at the next meeting. This is the most pressing issues besides Shoreland Protection. At the next meeting, scheduled for early October, the Committee will go through the process and discuss it some more.**

## IV. 11:15-12:15 Surplus Land Reviews (SLR) – Disposition of State-Owned Properties – Laura Weit, NHDES

### 1) **DOT 06-03 New Hampton (Pemigewasset River) – Vote Required**

Deb Hinman joined the Committee by phone at this time.

- **Ken Kimball requested that hard copies of SLRs be sent out to those members that have land lines, send out email for those that have high speed or how they want it sent to them.**
- **Deb Hinman voted in favor of the Ammonoosuc River.**

Laura discovered that DES does not always receive a complete packet from DOT for properties being proposed for disposal that were purchased with state or federal highway funds. RMAC wants to make sure DOT has determined if the parcel has been surplus or

not first. In some cases DOT should have given us more information before they send us a packet. After much discussion the following motion was made.

- **Walter Morse made a motion that we send a letter to DOT that we appreciate and want information as soon as possible but we will not start our 60 day clock until DOT has determined that the property is surplus, Deborah Hinman seconded the motion and the vote carried unanimously.**

**2) DOT 06-04 Plymouth (Pemigewasset River) – Vote Required**

The Common Man Conference Center would like to purchase an existing gravel parking lot for use as employee parking. The Common Man has requested this parcel on several occasions but DOT is now willing to part with it. This parcel is located approximately 250 feet away from the Pemi. Ted Sutton called the Town Manager in Plymouth, who pointed out that the parcel is located within the wellhead protection area; he also noted that he did not have any problem if it was turned over to the Common Man provided they keep the current use. It was noted that whenever DOT is considering disposal of a parcel, the town should be notified. It was also noted that no impervious surfaces should be allowed within a wellhead protection area. If the Common Man Conference Center plans to continue to use the parcel as a parking lot they should never pave it. The RMAC would like the town to review and approve the disposal. The parcel is also located adjacent to a railroad track which is used by snowmobiles, it is important that this use isn't impacted. After much discussion it was decided that:

- **Motion made by Ted Sutton to send a letter to DOT requesting that DOT send a letter to the town requesting approval from the town that they meet the town's wellhead protection now and in the future; protect the existing trail across the parcel; and meet all of the conditions of the Shoreland Protection Act. DOT must report the towns input back to the RMAC. For the RMAC to be satisfied that all of the conditions are met, the Committee requires documentation that these conditions have been met. If the town approves, then DOT can go ahead with the sale and if the town does not approve, then the RMAC disapproves. Deb Hinman seconded the motion and the vote was unanimous.**

**3) DOT 06-06 Franklin (Merrimack River) – Vote Required**

The proposed surplus land disposal falls within the jurisdiction of the UMLAC and the RMAC. The parcel consists of approximately 2.3 acres and is located in the easterly side of US Route 3 just south of Old South Main Street. The parcel falls within the buffer area of two F&G endangered species, the Brook Floater in the Merrimack River and the Bald Eagle. The intended use of the parcel is unclear at this time. According to Phil Miles, Mr. Weglarz approached DOT to purchase the property as a "buffer". It would appear that Mr. Weglarz owns several other vacant parcels in the area; none of which are adjacent.

The UMLAC has not had the opportunity to review the proposal and respectfully requests that the RMAC wait to make their determination until receiving comments from the UMLAC.

- **Motion by Walter Morse that the letter to be written to DOT should include this parcel, since it is the same issue as with parcel DOT 06-03 New Hampton. When DOT has more information the clock will start and the RMAC will review the information. The Committee also needs to consider the UMLAC's comments. The motion was seconded by Deb Hinman and the motion carried.**

**4) SLR 06-009 Franconia and Lincoln (Harvard Brook, Georgiana Falls, and other brooks associated with the Pemigewasset drainage basin) – Vote Required**

DRED is requesting to surplus 1,162 acres of the Second Presidential State Forest in exchange for 525 acres of US Forest Service land. Both properties abut Franconia Notch State Park. DRED wishes to link Cannon Mountain to the Mittersill Ski Area for the purpose of terrain improvement and opening of the ski area. In 1983 DOT purchased this land as part of the construction of I-93. In terms of acres there would be a loss of 600 acres to the State of New Hampshire.

The leasing of ski area has major political ramifications. The Town of Lincoln is disturbed that they have not received a letter from DRED.

- **Ted would like to stipulate that DRED notify the town of Lincoln.**

Torene Tango-Lowy attending for Johanna Lyons indicated that DRED does plan to hold public hearings.

Steve Couture - From water quality standards any land within a national forest has the highest standard for water. If it does go forward keeping that standard for the new state land taken from the national forest would have this level of protection removed.

Ken Kimball - This has huge ramifications. I recommend folks review and pay far more attention to this one due to visibility. I'd like to see covenants/conditions that are in deed if they are swapping original land that DOT gave to DRED, land the state would be giving to forest service in the Georgiana Falls area.

- Ted Sutton made a motion to table the request until DRED has completed public hearings. This is the same as the New Hampton and Plymouth parcels because all information is not in. We will not make any decisions until all information and public meetings are held in all towns. Ted amended his motion to incorporate Bill Heinz's suggestion that we do not do anything at this time.
- No further action, bring up as new information comes forward. Requested additional information on the exchange parcel.
- Ted Sutton agreed to keep us informed.
- William Heinz and Deborah Hinman are interested in attending the public hearings.
- Torene agreed to notify Steve Couture of public hearings so he can forward the information to the RMAC.
- Laura Weit will send a full paper copy and a PDF of this one to everyone.

#### **5) Status of AG comments/response to CORD & LMAC/RMAC letters**

Steve contacted Jen Patterson of the Attorney General's Office to follow up regarding the jurisdiction of the CORD, the LMAC and the RMAC. The AG will publish a formal opinion which has a higher legal standing, since it is the AG's office interpretation rather than just one attorney within the AG's office. Steve expects the opinion will be published in September.

The Committee has been working with the understanding that the RMAC's recommendations are binding as indicated by DES's Legal Unit review in the past.

#### **V. 12:15-12:30 Other Business/Action Item Review**

1) The RMPP received a \$1,000 check from Wal-Mart for river signs. The RMPP has an MOA with DOT to install signs within certain DOT ROW. This is the first time we have received money that wasn't from state or federal government. Steve will send a thank you to Director of Region for Wal-Mart.

- **William Heinz made a motion to expend money from Wal-Mart as designated, Walter Morse seconded the motion and the vote carried.**

2) Laura passed out travel vouchers to those members that need to fill one out.

#### **VI. Next Meeting Date/Adjourn:**

**Agenda Items**

**Update on SLRs**

**Status on AG's opinion**

**Rule making - Steve to develop an outline of the point system, and definitions to avoid oral rule making**

**Complete evaluation for the Ammonoosuc River's designation into the Rivers Management and Protection Program and Steve will send a memo to the Commissioner with the recommendation before next meeting.**

**Next meeting date: – Tuesday, October 3, 2006 from 9:30 am - 12:30 pm**

- **William Heinz made a motion to adjourn meeting. Deborah Hinman seconded the motion and the motion carried..**

**Meeting Adjourned at 12:57 pm**